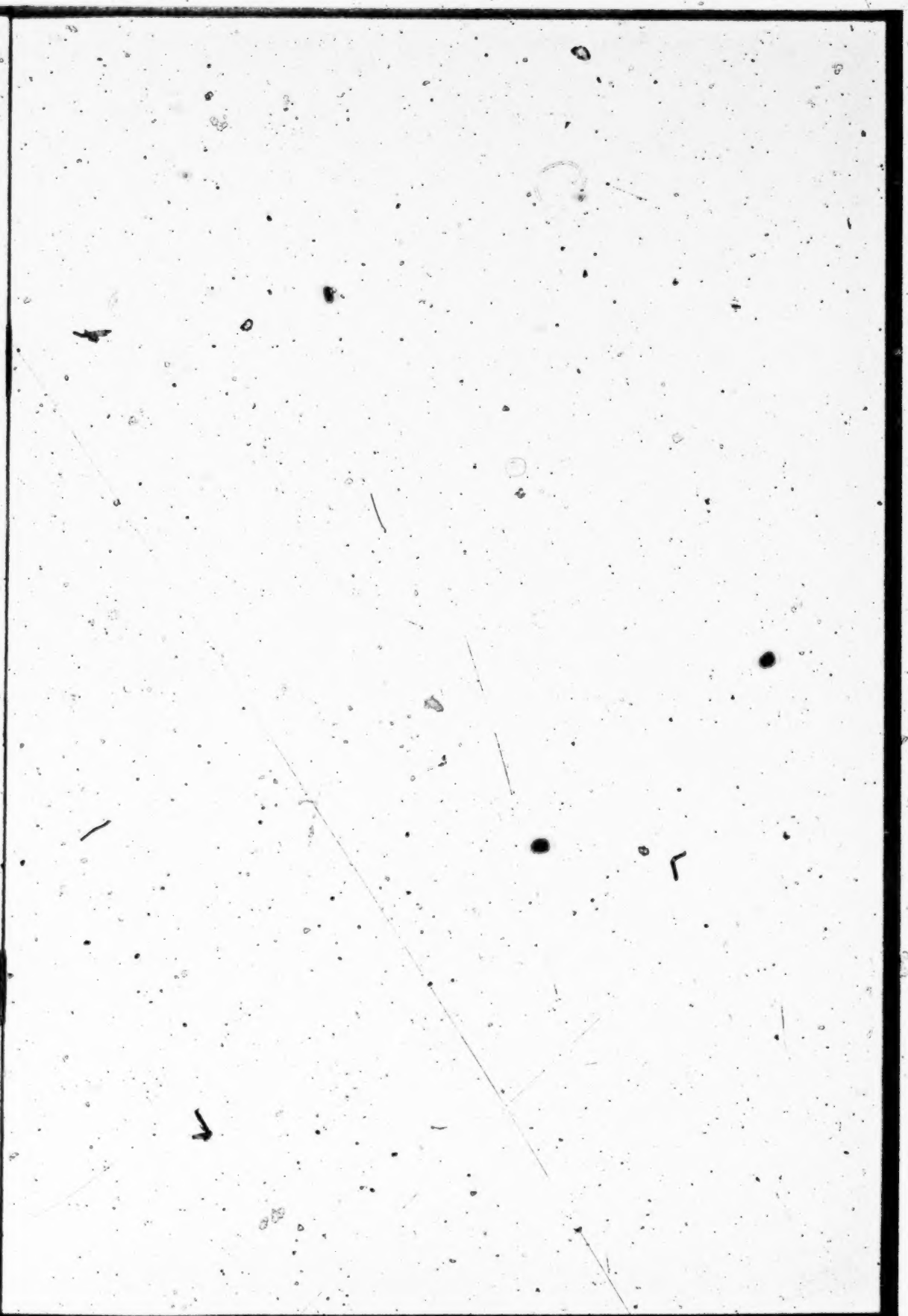

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Nos. 800 and 969

IN THE

Supreme Court of the United States

OCTOBER TERM, 1967

WORLD AIRWAYS, INC., ET AL., *Petitioners*,

v.

PAN AMERICAN WORLD AIRWAYS, INC., ET AL.

AMERICAN SOCIETY OF TRAVEL AGENTS, INC., *Petitioner*,

v.

PAN AMERICAN WORLD AIRWAYS, INC., ET AL.

On Writs of Certiorari to the United States Court of Appeals for the Second Circuit

SUPPLEMENT TO PETITION FOR REHEARING

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PRESS OF BYRON S. ADAMS PRINTING, INC., WASHINGTON, D. C.

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SUPPLEMENT TO PETITION FOR REHEARING

As indicated at p. 3 of our Petition for Rehearing, hearings on S. 3566, 90th Cong., 2d sess., "A bill to amend the Federal Aviation Act of 1958 with respect to the definition of 'supplemental air transportation,' and for other purposes" (see also 114 Cong. Rec. S6674-S6676), commenced before the Aviation Subcommittee of the Senate Committee on Commerce on June 12, 1968.

What was said at those hearings by Chairman Monroney so strongly supports the view of the present petitioners as well as that of the Civil Aeronautics Board, that we deem it appropriate to bring his remarks to the attention of the Court in connection with our Petition for Rehearing.

Chairman Monroney said on June 12, 1968 (pp. 46-48 of typewritten transcript):

> "May I further explain the history of the bill?
>
> "You will recall that the supplementals were unfinanced and underequipped at the time. We had delays and no shows, not of the passengers but of the planes, and the Aviation Subcommittee felt it was time to regularize these and bring about the safety records that we enjoy in other branches of aviation. We felt it could only be done by requiring stringent inspection and stringent regulations as to their safety of all kinds.
>
> "When the bill passed the Senate we were very proud of the results of the bill. It provided that they could sell charter only and that they were also allowed to have inclusive tour. We felt it was necessary to distinguish this type of service from the other types of service.
>
> "It was fought rather bitterly in the Senate by the schedule airlines and the Committee's position prevailed and they included that in the bill that passed the Senate. It wangled for weeks against a strong lobby in the other body and finally it was a question of having adjustment in the language or no bill at all.
>
> "In order to arrive at a bill the language of inclusive tours was stricken out on the theory we would leave this as we did the certification of these to the Civil Aeronautics Board. It was not deleted as a means of eleminating the all-inclusive

tour because I was head of the conference committee of the Senate but it was the matter of having the lines more clearly defined as to what the Board would do in the all-inclusive tour field by definitions and the bill was agreed to in both Houses.

"Unfortunately on the Floor of the House the other body, a certain debate was held including their interpretation of the all-inclusive tour being stricken out and not a matter that was to be left to the Board.

"The Board, when we passed it, did include the all-inclusive tours in their regulations and worked well until this court test which I think you can describe as a draw and it is up to us to clarify this language and to say definitely in law that the Board is to be the regulator of the—not only the certification but as to the extent and operation of the all-inclusive tour.

"So we are merely clarifying the situation that was subject to some misinterpretation. As to the results of the conference. But this bill supports the bill as it was passed by the Senate and we trust we can get it through to restore what we had originally intended to do which has resulted in a fantastic growth of tourism and a fantastic safety record."

On the following day, June 13, Chairman Monroney said (p. 175):

"I would be less than fair if I didn't say that having been Chairman of the Conference Committee that tried to resolve the differences between the two Houses, that contrary to the statement of the members of the House at the time the bill was passed and some of our own colleagues, it was not prohibited from the business of all inclusive tours. This was the stumbling block.

> "The Senate, in order to get a bill agreed to strike the specific language, but we didn't yield on the point and never intended to, that this would go out. The bill was designed and it was left to the CAB to decide that authority."

And again at p. 213:

> "All we are trying here to do is to do what the Senate itself insisted on doing when the bill was passed, and what we insisted on doing in the conference, which I insisted we were doing when we arrived at the floor. * * * "

It would be inappropriate to argue the weight of the foregoing comments now. But since those views of the Chairman of the Senate conferees plainly support our view that the court below erred in the present case, we submit them as an addition to our Petition for Rehearing.

Respectfully submitted.

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